

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

VINCE RICHARD VERNER, )  
Plaintiff, ) No. CV-10-371-CI  
v. ) ORDER GRANTING STIPULATED  
MICHAEL J. ASTRUE, ) MOTION FOR REMAND PURSUANT  
Commissioner of Social ) TO SENTENCE SIX OF 42 U.S.C.  
Security, ) § 405(g)  
Defendant. )

BEFORE THE COURT is the parties' Motion for remand of the above-captioned matter to the Commissioner pursuant to sentence six of 42 U.S.C. § 405(g). (ECF No. 16.) The parties seek remand specifically to locate copies of missing records from a prior claim. Pursuant to sentence six of 42 U.S.C. §§ 405(g), the court may remand the case to the Commissioner for good cause shown before an answer is filed and retain jurisdiction. *See Melkonyan v. Sullivan*, 501 U.S. 89, 98, 101 n.2 (1991). Sentence six requires the Commissioner to return to the district court to "file with the court any such additional or modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based." *Id.* at 98 (quoting sentence six).

Here, the parties agree that Plaintiff's representative will assist Defendant in locating copies of missing records. (ECF No. 16 at 2.) If the records cannot be located despite good faith efforts,

1 the case will be remanded for reconstruction of the administrative  
2 record, a *de novo* hearing, and a new ALJ decision. If the outcome  
3 of administrative proceedings is fully favorable, the parties shall  
4 file a stipulated motion to dismiss the complaint. Accordingly,

5 **IT IS ORDERED:**

6 1. The parties' stipulated Motion for remand (**ECF No. 16**) is  
7 **GRANTED**.

8 2. The parties shall continue to search for the missing  
9 records, or in the alternative, reconstruct Plaintiff's  
10 administrative record, hold another hearing, and issue a new  
11 decision.

12 3. If the outcome of the *de novo* hearing is not fully  
13 favorable, Plaintiff may seek judicial review by reinstating this  
14 case rather than by filing a new complaint.

15 4. If the outcome of administrative proceedings if fully  
16 favorable, the parties shall file a motion to dismiss the complaint.

17 5. **The court will retain jurisdiction of this action; no  
18 judgment shall be entered until further order of the court.**

19 The District Court Executive is directed to enter this Order  
20 and forward copies to counsel.

21 DATED August 29, 2011.

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S/ CYNTHIA IMBROGNO  
24 UNITED STATES MAGISTRATE JUDGE  
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